

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA,)
)
Plaintiff)
) No. 1:21-cr-10208-NMG
vs.)
)
RESHAT ALKAYISI,)
)
Defendant.)
)
)
)

BEFORE THE HONORABLE NATHANIEL M. GORTON
UNITED STATES DISTRICT JUDGE
Sentencing

John Joseph Moakley United States Courthouse
Courtroom No. 4
One Courthouse Way
Boston, Massachusetts 02210

September 17, 2024
11:05 a.m.

Kristin M. Kelley, RPR, CRR
Official Court Reporter
John Joseph Moakley United States Courthouse
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Mechanical Steno - Computer-Aided Transcript

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P R O C E E D I N G S

THE CLERK: All rise.

(The Honorable Court entered.)

THE CLERK: Thank you. You may be seated. This is
Criminal Action No. 21-10208, the United States of America
versus Reshat Alkayisi.

Would counsel please introduce themselves for the
record.

MS. PORTER: Good morning, your Honor. Alatheia Porter
on behalf of the United States.

THE COURT: Good morning, Miss Porter.

MR. SHEA: Good morning, your Honor. Mark Shea on
behalf of Reshat Alkayisi.

THE COURT: Good morning, Mr. Shea, Mr. Alkayisi.

Miss Patten we have from Probation, good morning.

PROBATION: Good morning, your Honor.

THE COURT: We are here for the sentencing of
Mr. Reshat Alkayisi. I have received and read the presentence
report, the government's sentencing memorandum, the defendant's
Sentencing Memorandum, two letters submitted by Central Falls
Detention Facility, a group of certificates of completion of
certain courses that the defendant has completed, and a letter
from a psychiatric evaluation from the University of California
Los Angeles psychologist.

Those are the writings I have received. Is there

1 anything I haven't mentioned that I should have received?
2 Miss Porter?

3 MS. PORTER: Your Honor, I believe defense counsel
4 handed something up to the Clerk this morning, but other than
11:07 5 that, no.

6 THE COURT: Yes. Apparently, there is a CD that has
7 been submitted but I haven't heard it.

8 MR. SHEA: I apologize for that. It's just something
9 I thought of at the last minute, your Honor, [REDACTED]
11:07 10 [REDACTED]
11 [REDACTED]
12 [REDACTED]. I was going to refer to it
13 in argument.

14 THE COURT: You may refer to it but I'm not going to
11:07 15 listen to it before the sentencing.

16 MR. SHEA: No. I understand, and I wasn't expecting
17 that.

18 THE COURT: Okay.

19 MR. SHEA: I just wanted it since I was referring to
11:07 20 it. I thought I should make it part of the record.

21 THE COURT: That's fine. Anything else that I didn't
22 mention that I should have received?

23 MR. SHEA: No. Thank you.

24 THE COURT: All right. Then turning to the
11:08 25 presentence report, there were several objections entered by

1 the defendant to that presentence report. As I read them,
2 Mr. Shea, the first eight are what I would call informational.
3 They have no impact on the establishment of the guidelines, is
4 that correct?

11:08 5 MR. SHEA: Yes. Some include information that's
6 relevant to part of what we might be arguing over.

7 THE COURT: Yes.

8 MR. SHEA: But they are information.

9 THE COURT: It is part of the record and will be, but
11:08 10 they don't need to be further argued here at this time,
11 correct?

12 MR. SHEA: I agree with that.

13 THE COURT: All right. So that then takes us up to
14 objection No. 9, which objects to the plus four enhancement
11:08 15 given because the Probation Officer recommends that I give him
16 a leadership/organizer adjustment under guideline 3B1.1(a).

17 I read the Probation Officer's response and agree with
18 it, but if you wish to be heard further on that objection, I
19 will hear you, Mr. Shea.

11:09 20 MR. SHEA: Thank you, your Honor. I do object on a
21 few different levels.

22 One, the government, in its Sentencing Memo, points to
23 unindicted co-conspirators that it doesn't even name that are
24 supposed to be part of the five, so those remain unclear or not
11:09 25 shown proven in any way to the Court.

1 Mr. Keleman is listed. To be fair, Mr. Keleman is
2 listed as being part of the conspiracy, meaning working
3 directly with Mr. Alkayisi, although I would point out that the
4 government has from one of its cooperators, cooperator No. 2,
11:10 5 who had described Mr. Keleman as a partner and not under
6 Mr. Alkayisi. I think that's important as to this particular
7 guideline enhancement.

8 Getting into the three people mentioned by the
9 government in their Sentencing Memo, which would be Miss Costa,
11:10 10 Mr. Watson and I forget the other fellow's name, Mr. Joyce I
11 think it is, who is related to Miss Costa. So part of what the
12 government points to is to say that Mr. Alkayisi paid when
13 Miss Costa and Mr. Joyce got arrested. The government paid --
14 I'm sorry. Mr. Alkayisi paid their bail and they use that as
11:11 15 evidence that that shows that he was over them or leading them
16 in some way. I would point out that they were running their
17 own operation. They were being supplied at times by other
18 people and that Mr. Alkayisi, and this is part of what we
19 objected to in the parts of the objections that were more
11:11 20 informational, was that as to Miss Costa, Mr. Alkayisi had had
21 an intimate relationship with her so that's a reason that
22 doesn't involve the conspiracy for him to have posted her bail.

23 Another concern would have been that they might have
24 cooperated against him. That doesn't mean necessarily that
11:12 25 they're in a conspiracy together, meaning you can post bail for

1 someone who is not working for you directly but who you're just
2 supplying and out of concern for the fact that they will give
3 information against you.

4 The other argument I would make is in the *Arber* case,
11:12 5 which is a First Circuit case on this issue, part of what they
6 pointed to in the *Arber* case is that defendant *Arber* had
7 provided firearms to other people in the conspiracy, and his
8 was a drug conspiracy. They go on to say that they directed
9 what he did and he even chose what firearms that people under
11:12 10 him would have.

11 Now, in this case, Miss Costa, and I think it's
12 Mr. Joyce, had their own firearms never supplied by
13 Mr. Alkayisi. He had nothing to do with that. They chose to
14 arm themselves but meaning that, in contrast to the *Arber* case,
11:13 15 they are free and flowing actors working on their own. That's
16 the point I'm trying to make with that.

17 Lastly, I would point to the fact that the guideline
18 itself, I object to the use of any commentary in the guideline
19 given the recent Supreme Court decision on *Loper Bright v.*
11:13 20 *Raimondo* because, in that case, the Court seems to have vacated
21 or overruled the *Chevron* case. The Guidelines' commentaries --

22 THE COURT: That's a unique commentary. I didn't
23 think we'd hear about *Chevron* today, but go ahead.

24 MR. SHEA: The reason I point to it here is I'm making
11:14 25 an argument that is both on status -- the number of people and

1 the status of my client. The commentaries say that if you get
2 to the magic number of five, then you only have to show that he
3 actually managed one of the five, and that is where my
4 objection lies where I'm using *Loper* because the First Circuit
11:14 5 has said, even in *Arber*, that that was sufficient, but they
6 also say that not all circuits have adopted using the
7 commentary that way. It does appear that in other cases, now
8 at this point it's been on intended loss, actual loss versus
9 intended loss, but there was already a split in the circuits on
11:15 10 whether the commentary can be used on that.

11 THE COURT: You understand that the provision that
12 you're talking about, 3B1.1(a), talks about five or more
13 participants or is otherwise extensive? Are you arguing this
14 wasn't an extensive conspiracy?

11:15 15 MR. SHEA: I am arguing that but I'm also arguing the
16 secondary part, which is the part that's in the commentary,
17 which is --

18 THE COURT: I don't need to get to the commentary.
19 The language of the rule itself says "or otherwise extensive".
11:15 20 Are you telling me you believe this conspiracy was not
21 extensive?

22 MR. SHEA: Yes, in terms of Mr. Alkayisi's management
23 or role in it.

24 THE COURT: I don't know what case you've been looking
11:16 25 at, Mr. Shea, but it's not the same one I've been seeing.

1 MR. SHEA: I believe that it's also, once you get to
2 that five, you also have to show specifically that he managed
3 one, and I don't think without the commentary that that happens
4 here.

11:16 5 THE COURT: All right. Does the government have a
6 position?

7 MS. PORTER: Your Honor, the government agrees with
8 Probation's analysis as well as the Court's. It is clear from
9 the evidence in this case that Mr. Alkayisi led and organized
11:16 10 and directed the conduct of more than five individuals and that
11 this conspiracy was otherwise extensive. In terms of the
12 unindicted co-conspirators, those individuals have been
13 identified. They're listed in detail by name in the
14 presentence report. The government chose not to name them in
11:16 15 the publicly filed document. The defendant is well aware of
16 who those individuals are, including the person who was
17 directed to hide the guns after his 100 pounds of
18 methamphetamine were seized.

19 Your Honor, it's clear that Mr. Alkayisi organized and
11:17 20 led a number of different individuals in this case and, as the
21 Court has made clear, he needs to only manage or supervise one
22 of those individuals. He certainly did that. The criminal
23 activity here certainly involved more than five individuals as
24 11 people were charged in the Second Superseding Indictment.
11:17 25 The conduct was definitely extensive, otherwise extensive. It

1 went across the entire country through multiple states.
2 Methamphetamine was shipped from California to New England.
3 Mr. Alkayisi lived in Rhode Island. He distributed that
4 methamphetamine to individuals in Maine, in New Hampshire, in
11:17 5 Massachusetts, in Connecticut, in Rhode Island. This conduct
6 was absolutely extensive, your Honor, and he certainly meets
7 the standard and the elements for the role enhancement of four
8 levels appropriate here.

9 THE COURT: Thank you. The Court overrules objection
11:18 10 No. 9 and agrees with the Probation Officer --

11 MR. SHEA: Just --

12 THE COURT: Yes?

13 MR. SHEA: I want my objection noted.

14 THE COURT: Your objection is noted. I overrule
11:18 15 objection No. 9 and agree with the Probation Officer that there
16 were more than five individuals involved in this conspiracy
17 that was extensive and that this defendant was the leader of at
18 least one of those individuals, therefore the four-level
19 enhancement is warranted.

11:18 20 Objection No. 10 claims that the defendant is entitled
21 to a two-level downward adjustment because he is a zero point
22 offender. Probation disagrees on three grounds: First, that
23 he has three criminal history points; second, that he possessed
24 a firearm; third, that he received an aggravated adjustment,
11:19 25 role adjustment, which has just been confirmed.

1 Do you have any further argument on objection No. 10,
2 Mr. Shea?

3 MR. SHEA: No. I would concede as to the firearm. I
4 agree with them on that.

11:19 5 THE COURT: All right. So that objection is
6 overruled.

7 Objection No. 11 is derivative of objections nine and
8 ten, which have been overruled before, and therefore it is
9 overruled.

11:19 10 The second objection 11, which we could call 11(a), is
11 an objection only to the only scored conviction that awarded
12 this defendant 3 points and recites a First Circuit case, the
13 *Brown* case.

14 Do you wish to further argue that objection, Mr. Shea?

11:19 15 MR. SHEA: Well, I'm just objecting to the counting of
16 any prior conviction without the certified copies of conviction
17 being provided to the Court.

18 THE COURT: The Probation Officer's response was the
19 court records are available for counsel's review. Did you take
11:20 20 advantage of that?

21 MR. SHEA: Yes, I did.

22 THE COURT: And you're telling me that I can't decide
23 this issue without having it part of the record?

24 MR. SHEA: I'm asking that it be part of the record in
11:20 25 order for you to count it, yes.

1 THE COURT: I'll ask Miss Patten about that.

2 PROBATION: Your Honor, I do not believe it needs to
3 be part of the record for you to find that it's a scorable
4 offense. I think the guideline lays it out accurately that it
11:20 5 can be scored based on the time frame.

6 THE COURT: That's the Court's understanding and,
7 therefore, overrules the second objection 11, which I've been
8 referring to as objection 11(a) to paragraph 132 of the
9 presentence report.

11:20 10 MR. SHEA: Just note my objection.

11 THE COURT: I note Mr. Shea's objection.

12 Objections 12, 13 and 14 are all derivative on this
13 previous objection just overruled, so they are overruled as
14 well.

11:21 15 That leaves us with objection No. 15, which are two
16 factors that may warrant a sentence outside the advisory
17 guideline system. The Probation Officer has offered those
18 comments provided for the Court's review.

19 Do you wish to further argue that objection, Mr. Shea?

11:21 20 MR. SHEA: No. I think I'll capture it in my
21 argument, thank you.

22 THE COURT: All right. Then as far as the Court is
23 concerned, the defendant is not entitled to a downward variance
24 for any of the reasons argued in objection 15, so objection 15
11:21 25 is overruled.

1 Those are all the objections that I am aware of. Are
2 there any others, Miss Porter?

3 MS. PORTER: No, your Honor.

4 THE COURT: Or Mr. Shea to the presentence report?

11:22 5 MR. SHEA: No, thank you.

6 THE COURT: Then we need to turn to the
7 recommendations with respect to the guidelines in the
8 presentence report. They start on page 36, wherein I am
9 advised that the 2023 Guideline Manual applies and that within
11:22 10 that manual, we are dealing with three sections, the drug
11 trafficking section, 2D1.1, the use of a firearm in
12 furtherance, which is 2K2.4, and the money laundering
13 guideline, which is 2S1.1.

14 Because 2S1.1 yields the higher of the offense levels
11:22 15 between the drug trafficking and money laundering, that's where
16 we start. The second one with respect to the use of the
17 firearm in furtherance is statutorily -- there's a statutorily
18 mandated term of imprisonment that is required to run
19 consecutively, which is 5 years, because the firearm was used
11:23 20 or possessed in furtherance of a drug trafficking crime. That
21 particular enhancement that would have gone in the drug
22 trafficking section cannot be added there because of that
23 automatic on and after of 2K2.2.

24 So starting with the money laundering guideline, 2S1.1
11:23 25 refers back to the guideline for drug trafficking. Because the

1 defendant is held accountable for at least four and a half
2 kilograms of pure methamphetamine, the base offense level is 38
3 pursuant to 2S1.1(a)(1) and 2D1.1(a)(5).

4 Do counsel agree with that calculation? Miss Porter?

11:24 5 MS. PORTER: Yes, your Honor.

6 THE COURT: Mr. Shea?

7 MR. SHEA: Yes.

8 THE COURT: The Court so finds.

9 Then with respect to the fact that the defendant
11:24 10 maintained a premises for the purpose of manufacturing or
11 distributing a controlled substance, a two-level increase is
12 warranted under guideline 2D1.1(b)(12).

13 Do counsel agree with that calculation or that
14 recommendation? Miss Porter?

11:24 15 MS. PORTER: Yes, your Honor.

16 THE COURT: Mr. Shea?

17 MR. SHEA: I agree with the calculation.

18 THE COURT: The Court so finds.

19 Then, as we have previously determined, the defendant
11:24 20 was an organizer or leader of a criminal activity that involved
21 five or more participants or was otherwise extensive, therefore
22 a four-level increase is applied pursuant to guideline
23 3B1.1(a). That means the adjusted offense level in this case
24 is 44.

11:25 25 The defendant is entitled to a three-level downward

1 adjustment for his acceptance of responsibility, therefore ends
2 up with a total offense level of 41.

3 Turning to the defendant's criminal convictions, there
4 are six convictions that are listed in the presentence report
11:25 5 but only one of those is scored because of the age of the
6 remaining five convictions. The conviction in 2012 for
7 possession and dealing with marijuana more than 5 kilograms of
8 marijuana or, actually, it's a Schedule I, Schedule II drug,
9 Count Two, he gets three criminal history points for that. And
11:25 10 even though he committed the instant offense while under the
11 criminal justice sentence of that particular crime, it is
12 less -- he has less than seven criminal history points,
13 therefore no additional points are added under 4A1.1. He ends
14 up with three criminal history points and falls in Criminal
11:26 15 History Category II.

16 Do counsel agree with those calculations?
17 Miss Porter?

18 MS. PORTER: Yes, your Honor.

19 THE COURT: Mr. Shea?

11:26 20 MR. SHEA: Without waiving my prior objection.

21 THE COURT: I understand, without waiving.

22 That means at offense Level 41, Criminal History
23 Category II, the guideline range is 360 months to life.

24 I will hear recommendations for sentence --

11:26 25 MR. SHEA: Can I just address briefly?

1 THE COURT: Yes.

2 MR. SHEA: I'll be brief. I do think that *Loper* also
3 calls into question the legitimacy of using the guidelines at
4 all because in the past when the courts have reviewed the
11:26 5 Sentencing Guidelines, and I mean the Supreme Court and the
6 circuit courts, they've referenced *Chevron* deference as a
7 reason that the Court should use the Sentencing Guidelines. If
8 *Chevron* has been overruled and *Loper*, then there's no
9 legitimacy to the Sentencing Guidelines left. So I object to
11:27 10 us beginning the process.

11 THE COURT: I'll let you take that up with the Supreme
12 Court.

13 MR. SHEA: Thank you.

14 THE COURT: I'll hear recommendations for sentencing,
11:27 15 starting with the government. Miss Porter?

16 MS. PORTER: Yes. Thank you, your Honor.

17 The low end of the guidelines is 360 months for the
18 drug trafficking offense, and the Court is required to impose a
19 60-month sentence from and after whatever sentence it imposes
11:27 20 for the drug trafficking offense in this case, your Honor.

21 As the Court is aware, the government is recommending
22 a sentence of 360 months in total for defendant Reshat
23 Alkayisi. The government does not make this recommendation
24 lightly. This recommendation comes after careful thought and
11:28 25 consideration. It is not every day that the government finds

1 itself making such a significant sentencing recommendation, but
2 it is not every day that the defendant finds a -- that the
3 government finds a defendant like Reshat Alkayisi. It is not
4 every day that the government is faced with the atrocious
11:28 5 criminal conduct of someone like Mr. Alkayisi.

6 This investigation began in the fall of 2020 when the
7 FBI Boston Strike Force began investigating a large scale
8 methamphetamine drug trafficking organization in the Boston
9 area. After several months of investigation, the agents
11:28 10 identified the defendant Reshat Alkayisi as the leader of that
11 drug trafficking organization.

12 At the time of his arrest in 2021, Mr. Alkayisi was
13 the largest methamphetamine distributor in the New England
14 area. He was getting tens, if not hundreds, of pounds of
11:28 15 methamphetamine shipped to him from California every single
16 month. He was getting that methamphetamine in California at a
17 cheap rate and he was selling it at a huge profit to multiple
18 people who were further distributing that dangerous drug
19 throughout New England.

11:29 20 In May of 2021, investigators received authorization
21 to intercept Mr. Alkayisi's phone. They did so for 60 days.
22 Based on those interceptions, along with additional
23 investigation, they identified a number of Mr. Alkayisi's
24 distributor customers. They learned that he was regularly
11:29 25 providing them with distributor quantities of pure

1 methamphetamine.

2 Mr. Alkayisi was not a drug addict. He wasn't selling
3 this dangerous drug to support his own drug addiction. He was
4 a businessman. He was doing it to make a profit, and he made
11:29 5 that profit off of the pain and suffering of others. He
6 bragged about the purity of his methamphetamine. He bragged
7 about how addictive it was and how it would cause his customers
8 to keep coming back for more. He preyed on the suffering of
9 those who were addicts. He manipulated those around him to get
11:30 10 them to do his criminal bidding. He recruited addicts to be
11 his drug distributors and he paid their bail when they were
12 arrested so they could go out and continue distributing his
13 methamphetamine for his profit.

14 He preyed upon his own wife. He manipulated her. He
11:30 15 dragged her into his criminal enterprise and he directed her to
16 launder his drug proceeds. He took advantage of people down on
17 their luck, like co-defendant Brian Keleman, who needed a job
18 and a place to stay. He pretended to care about Mr. Keleman
19 and then he brought him into his criminal enterprise and he
11:30 20 directed him to distribute his methamphetamine, to collect that
21 methamphetamine, collect that drug proceeds, and to launder the
22 drug proceeds on behalf Mr. Alkayisi.

23 Now Mr. Keleman and Mr. Alkayisi's wife both stand as
24 convicted felons who are going to serve significant prison
11:30 25 sentences. The defendant is not a remorseful man. He is not

1 an honest man. Counsel's characterization of Mr. Alkayisi as
2 having extraordinary acceptance of responsibility is a farce
3 that is not based in reality. [REDACTED]

4 [REDACTED]

11:31 5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 The defendant didn't plead guilty in this case until
9 the eve of trial, and then when it came to the presentence
11:31 10 report, he made frivolous objections, such as that he would be
11 entitled to the zero point offender, which as this Court just
12 went over, he was disqualified from on three separate grounds,
13 including that he pled guilty to a disqualifying offense.

14 The 60 days of interceptions of Reshat Alkayisi
11:31 15 painted a very clear picture of the defendant before you,
16 someone who puts others at risk, someone who puts others in
17 danger for his own benefit and gain. This is a man who
18 manipulated others to do his dirty work. This is a man who
19 profited off of the pain and suffering of others. This is a
11:32 20 man who tried to get someone to shake down his drug customers
21 who owed him money, potentially by force.

22 This is a man who, when he didn't know that the agents
23 were listening, was going around doing drug deliveries with a
24 child in his car and then joking about it. He joked, saying,
11:32 25 train them young, and how no one will suspect a handicap kid

1 delivering drugs. That is the true character of this
2 defendant.

3 Defense counsel's made arguments about a supposed
4 gambling addiction, a claim of gambling addiction that he says
11:32 5 the defendant suffers from, but based on the records that the
6 defendant provided, there is no support for that claim. Over
7 the course of the conspiracy period, about 17 months, it looks
8 like he went to casinos, based on those records, on about four
9 separate occasions. Over that time it looks like he had a
11:33 10 potential loss of \$8,000. We know from the investigation he
11 traveled to Las Vegas with family members, with his girlfriend,
12 with his wife. These are vacations and he enjoyed gambling,
13 that's true, but the evidence does not support a gambling
14 addiction. In his presentence interviews, he claimed to go to
11:33 15 casinos twice a week, but the records he provided showed no
16 support for such a claim.

17 Now, defense counsel cited a number of cases in other
18 courts where Courts have considered gambling addiction as a
19 mitigating factor. The government submits that each of those
11:33 20 cases are factually distinguishable from the case here. Those
21 cases involve corroborating testimony of other individuals
22 related to the defendant's conduct. They involved huge debts,
23 loan sharks and daily gambling. Those are not the facts
24 presented to this Court.

11:33 25 And with all due respect to Doctor Fong who issued

1 that report, he provides no basis for his claim that
2 Mr. Alkayisi's gambling contributed to his criminal conduct.

3 And even if the Court were to consider this as a
4 mitigating factor to agree that maybe the defendant had a
11:34 5 gambling addiction, that addiction would hardly justify the
6 enormous amount of methamphetamine that he was distributing.

7 Let's talk about that amount. Over the course of just
8 6 months, this defendant is responsible for over 239 kilograms
9 of pure methamphetamine, in 6 months. That is more than 53
11:34 10 times the threshold amount to hit the base offense level here.

11 And let's be clear. That is the top base offense level for the
12 drug trafficking guidelines. Any argument that using the
13 methamphetamine actual or the pure guidelines here is too harsh
14 completely misses the mark. It doesn't hold water under the
11:34 15 facts of this case, because even if we were talking about this
16 quantity with the methamphetamine mixture, it would still be at
17 the same base offense level. If we were talking about this
18 quantity of Fentanyl, it would be at the same base offense
19 level. The guidelines would be the same.

11:35 20 Make no mistake, your Honor. This is not a victimless
21 crime. Methamphetamine is a highly addictive, dangerous and
22 devastating drug that destroys lives. Tens of thousands of
23 people are dying every year from methamphetamine abuse and,
24 sadly, the statistics continue to get worse. The CDC found
11:35 25 that overdose deaths from methamphetamine increased 703 percent

1 between 2011 and 2021, the time this defendant was distributing
2 this deadly substance. The National Institute on Drug Abuse
3 found among people age 12 and older in 2021, 2.5 million people
4 reported using methamphetamine. That's only reported use, your
11:36 5 Honor. And given the highly pure and potent nature of the drug
6 the defendant was distributing, the effects of it cannot be
7 understated.

8 The consequences of methamphetamine are horrific. In
9 addition to killing people, it also just destroys their lives,
11:36 10 the effects, physically and mentally and socially, on the
11 individuals who abuse this drug and those around them is
12 completely atrocious. It causes severe mental problems. It
13 causes psychosis, violent and aggressive behavior and
14 significant other physical problems.

11:36 15 And, of course, your Honor, the defendant was also
16 trafficking these substances while he possessed firearms
17 unlawfully. He possessed an AK-47 assault style rifle. He had
18 a Glock 9-millimeter handgun with no serial number, and he had
19 over 4,200 rounds of ammunition for those firearms. He had an
11:37 20 arsenal to protect his drug trafficking business. And what did
21 he do when he thought that the police were coming to raid his
22 property? He directed someone to go hide those guns and that
23 ammunition.

24 As this Court is all too aware, it is difficult to
11:37 25 underestimate the danger associated with having guns in

1 combination with drug trafficking. The government's
2 recommendation is a very significant one, but it is a downward
3 variance from where the guidelines are starting at 420. In
4 fact, it is 60 months, or 5 years lower, than what the low end
11:37 5 would be if you take that into consideration. That
6 recommendation takes into consideration potential mitigating
7 factors of the defendant, including his age.

8 The defendant is asking this Court to impose a
9 sentence of 15 years. That is the mandatory minimum that this
11:37 10 Court is required by law to impose based on the offenses of
11 conviction. To sentence Mr. Alkayisi to the mandatory minimum
12 would fail to address the seriousness of this offense and the
13 characteristics of this defendant, as particularly here where
14 the amount at issue of pure methamphetamine is so
11:38 15 astronomically high. To do so would create a sentencing
16 disparity where a defendant who is responsible for
17 4.5 kilograms of methamphetamine could receive the same
18 sentence as this defendant, who is responsible for over
19 239 kilograms. The sentence that the defendant asks this Court
11:38 20 to impose, the mandatory minimum, would fail to promote respect
21 for the law. It would fail to adequately deter others from
22 this conduct. It would fail to adequately serve as a
23 deterrent. It would fail to adequately punish this defendant
24 and it would fail to protect the public from the future crimes
11:38 25 of Reshat Alkayisi.

1 The government recommends a very serious sentence in
2 this case, your Honor, but in order to achieve all the goals of
3 sentencing when considering all the factors in this case, when
4 considering the defendant himself, that sentence is
11:39 5 appropriate, it is warranted, and it is the correct sentence
6 for Reshat Alkayisi.

7 Thank you.

8 THE COURT: Thank you, Miss Porter.

9 Mr. Shea?

11:39 10 MR. SHEA: Thank you.

11 Judge, we understand what we're asking for, which is
12 the 15 years, on its face may seem a light sentence, but I
13 think in what I hope to lay out in my argument, when you look
14 at the entirety of the situation, the individual and his age,
11:39 15 it is the appropriate sentence and the just sentence. What the
16 government is asking for is effectively a death sentence
17 because my client is 63 years old. A 30-year sentence makes it
18 extremely unlikely that he would ever emerge from prison. So
19 that is, I think, an important place to start.

11:40 20 The government implied that at different points
21 Mr. Alkayisi may have threatened other members of the
22 conspiracy. I would just say that that did not happen here.
23 Mr. Watson was known to Mr. Alkayisi. To know the other two
24 people, that's how they knew each other, and so he inquired of
11:40 25 Mr. Watson about getting some money back. At no point did he

1 say that force should be used, and no force ever was used. So
2 we're standing here in a bad enough situation without trying to
3 heighten things with things that didn't actually happen. So
4 I'd just like to make sure he gets sentenced for what he did
11:40 5 and not more implications that are not worthy.

6 As to the gun, we pled guilty to the gun. It's true
7 Mr. Alkayisi had two firearms. I disagree with the
8 government's statement regarding the guns. Mr. Alkayisi did
9 make a phone call when he believed the federal government was
11:41 10 going to raid his property. He made the phone calls for the
11 Glock that was in his bedside table to be moved, not the AK-47
12 because the AK-47 wasn't there. The AK-47 and the ammunition
13 were both in a place far from his home on this farm inside,
14 effectively, a barn, not anywhere within range for his use.
11:41 15 The Glock was in range in his bedside table, but I do think the
16 context is important here.

17 Mr. Alkayisi was running a marijuana farm, and that
18 was known to the public, and that was part of the face he had
19 where he hid his meth business. We're not denying that and
11:42 20 we're not denying that the meth business is a horrible business
21 to be in, but to get back to this point, when you're running a
22 marijuana farm in the modern day and in the state it's legal
23 but in the federal government it's still illegal and so the
24 banks can't take money in, it is well known to criminal people
11:42 25 that there's a likelihood of cash being present on a marijuana

1 farm. So yes, Mr. Alkayisi pled guilty to having a gun, but
2 it's not unreasonable for him to have some fear that his home
3 could be invaded. I've represented more than a few individuals
4 in the Massachusetts courts who did just that, invaded drug
11:43 5 dealers' homes. Now I don't say that that makes it right but I
6 do think it's contextually important.

7 The thing is, Mr. Alkayisi drove around and delivered
8 methamphetamine to different customers. Never did he have a
9 weapon. He never carried a weapon around. He never had a
11:43 10 weapon on him. The reason he ever contacted Mr. Watson
11 regarding Miss Costa and Mr. Joyce was that Miss Costa and
12 Mr. Joyce had firearms that they carried around and
13 Mr. Alkayisi never used the firearm.

14 So he pled guilty to it and he is guilty of having the
11:43 15 firearm, but I do think it is important to put it in context of
16 how it was used, meaning never, and that it was in the table
17 beside his bed. And yes, he tried to hide it from the federal
18 government, but he didn't ask anyone to use it against the
19 federal government. He asked them to hide it. I don't
11:44 20 think -- and we've admitted to that criminal conduct.

21 Now, meth is a terrible plague, we're not denying
22 that, and that people are being hurt. Mr. Alkayisi doesn't
23 deny that he hurt people, and he is regretful of that, but part
24 of what we point to in our Sentencing Memo is that the far
11:44 25 bigger crisis in this country is the opioid crisis and

1 statistically that is a fact. There is no dancing around that
2 fact and no one seems to get anything remotely close to
3 15 years for that. In fact, the Sackler family never even
4 finds itself in any court but a civil court and it often seems
11:45 5 to have made deals there so it doesn't even have to go to
6 court. If you made enough money, you don't really get
7 punished.

8 And then, in this very court, and I cited in my
9 footnote, and I don't mean your court, your Honor, but in this
11:45 10 courthouse, there's been sentences handed out to drug companies
11 who participated in the opioid crisis. The point I was trying
12 to make in the Sentencing Memo is yes, Mr. Alkayisi took
13 advantage of addicted people, and that is a terrible thing for
14 which he repents, but the larger opioid conspiracy was to
11:45 15 addict people, to take people who had no addiction and to get
16 them addicted through the use of doctors, through the use of
17 the medical establishment and industry, and those folks don't
18 get punished.

19 So when we talk about sentencing disparities, the
11:46 20 highest sentence given out in that drug case in the federal
21 court in Boston for a wide ranging conspiracy involving a drug
22 company that literally had its salespeople bribing doctors to
23 prescribe their opioids, the highest sentence given was
24 6 years, which would be 9 years less than what I'm asking for.
11:46 25 So I do think that it's appropriate to look at that,

1 particularly when the opioid crisis, as we pointed out, has
2 killed twice as many people as the meth crisis.

3 Now, the other thing in this particular case too in
4 terms of sentences handed out thus far, I believe Miss Costa
11:47 5 got 9 years. She was a significant dealer, traveled even with
6 Mr. Alkayisi to buy large amounts of meth, had a firearm
7 herself. Mr. Watson, I believe, got 12 years, but he has an
8 extensive criminal history that I think drove, in a large part,
9 his sentence. I wasn't present for his sentence but I think
11:47 10 that's a fair statement regarding his sentence. So my reason
11 for bringing that up is that 15 years would be by far the most
12 severe sentence in this case and it's not out of line with the
13 other sentences that have been handed out in this case.

14 Mr. Tavella stands to be sentenced sometime in the
11:48 15 future. I'm not sure by this Court, I don't think, but he was
16 the supplier. He was the reason that the drugs were pure,
17 meaning Mr. Alkayisi never manufactured or did anything with
18 the drugs. He just resold the drugs he got. So the purity is
19 actually on Mr. Tavella, the supplier.

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11:48 25

	1	[REDACTED]
	2	[REDACTED]
	3	[REDACTED]
	4	[REDACTED]
11:49	5	[REDACTED]
	6	[REDACTED]
	7	[REDACTED]
	8	[REDACTED]
	9	[REDACTED]
11:49	10	[REDACTED]
	11	[REDACTED]
	12	[REDACTED]
	13	[REDACTED]
	14	[REDACTED]
11:50	15	[REDACTED]
	16	[REDACTED]
	17	[REDACTED]
	18	[REDACTED]
	19	[REDACTED]
11:50	20	[REDACTED]
	21	[REDACTED]
	22	[REDACTED]
	23	[REDACTED]
	24	[REDACTED]
11:51	25	Now, the government has kind of attacked Mr. Alkayisi

1 as a bad person, basically. One of their own cooperators,
2 cooperator No. 2, when asked to describe Mr. Alkayisi literally
3 said, and I am reading from the report, "Alkayisi is an idiot
4 and greedy" in describing how Alkayisi sold methamphetamine.
11:51 5 That is what people actually thought of him. And he didn't use
6 fake names. He used his own name. Everyone in this thing knew
7 his own name. He didn't comport himself in any way like a
8 regular drug dealer.

9 Miss Porter did another trial for Judge Hillman with a
11:52 10 fellow and she asked her agent regarding this, "in your
11 training and experience, did individuals who are engaged in
12 drug trafficking often use each other's names? Do they
13 sometimes use code names?"

14 "They sometimes use no name at all or code names or
11:52 15 all of the above." No, not here.

16 But here's even more important. "In your training and
17 experience of over a decade of narcotics investigations, how
18 common is it to observe hand to hand deals by higher level
19 suppliers?"

11:52 20 "It's very unlikely."

21 Well, that actually happened here. Mr. Alkayisi is on
22 numerous videotapes actually making the sales. Now I'm not
23 saying that's to his credit, but I do think it shows more
24 realistically who he is, not a big time dealer. Yes, the
11:53 25 numbers are high. I'm not denying that, but he did not act in

1 any way like someone who knew what he was doing.

2 I'm trying to get across the reality of who the man
3 is. The other people here think he's an idiot. He doesn't
4 follow any of the ways of doing business that federal agents
11:53 5 say are common practice.

6 And so why is that? It's because he did have a
7 gambling addiction and does have a gambling addiction. Now he
8 has stopped gambling since being incarcerated but the reality
9 is that Reshat Alkayisi was a marijuana dealer. The people he
11:53 10 knew from marijuana dealing are the people who introduced him
11 to the meth business. Why did he move from the marijuana
12 business to the meth business? Profit. Why did he need more
13 money? Because he was a gambling addict.

14 Now the government says that Mr. Alkayisi wasn't
11:54 15 really an addict, yet in their own Sentencing Memo, on page 4,
16 they say "during the 60 days of interceptions, the defendant
17 regularly traveled to Las Vegas, Nevada". So in their own memo
18 from their own interceptions he's regularly in Las Vegas,
19 Nevada. He never does any drug deal there, none. There's no
11:54 20 allegation of ever meeting anyone there, doing any drug deal
21 there, or having anything to do with it. He's in Las Vegas,
22 Nevada because he's gambling. We place him at numerous casinos
23 with the GPS gambling.

24 Now, not all of the amounts gambled could we document
11:55 25 because unless you use a player's card, they don't actually

1 know. If I go to the Encore Casino this afternoon, they're not
2 going to know how much I gambled unless I decide to tell them
3 that I am there and want to try to get the benefits of being a
4 big wheel or something. If Mr. Alkayisi was trying to fly
11:55 5 under the radar or not show how much money he had or not let
6 family members know that he had a gambling problem, then the
7 casino also does not know.

8 And the most glaring point here is that, yes, large
9 amounts of meth were sold. We're not denying that. The
11:55 10 government, in its own argument, said huge profits. Again,
11 let's just use their own words, huge profits. All right. So
12 there are huge profits. They know how to track money. I have
13 all sorts of forfeiture cases. I have all sorts of cases where
14 they go to seize assets, right? You've seen this on probably
11:56 15 more occasions than I have and know that the government knows
16 what it's doing and how to do it.

17 In this case, all there are is a couple motor
18 vehicles. So if he made \$2 million in profit and they seize
19 nothing but a couple motor vehicles, where is the money? It's
11:56 20 at the casinos. And we employed an expert who is an expert in
21 this field, one of the people who led to it being in the DSM-IV
22 and DSM-V, meaning by doing the studies that showed how the
23 brain changed when you were under the addiction of gambling.
24 And we tried to show in our memo how it wasn't even considered
11:57 25 an illness pre 1980 by the DSM. Then by DSM-III in the 1980s

1 it's included but different category, and now it's rightfully
2 been included in the category that is similar to alcoholism and
3 substance abuse.

4 And I do think, as a society, we can't decide to
11:57 5 legalize gambling and to make huge profits. I think it was
6 \$62 billion was made in the gaming industry and then turn a
7 blind eye to the fact that people are addicted. It's a
8 reality. And my client is addicted, and it doesn't make any
9 sense for the government to argue otherwise when they literally
11:58 10 track him to all the casinos and then they can't locate any of
11 the profit.

12 The guidelines talk about not giving people credit for
13 gambling. That's why we ask for a variance. I do think the
14 point under *Loper* is you're not bound by whatever the
11:58 15 guidelines suggest and so you can depart or, I'm sorry, give a
16 variance based on my client's gambling addiction, which is
17 really what drove him into this business and drove this case.

18 Now, my client has suffered real losses from this
19 case. We're not denying other people were hurt, but he's lost
11:59 20 his granddaughter, died while he was incarcerated. He
21 basically lost his family at this point, and he's going to be
22 deported, and he's 63 years old.

23 I'd also point to a certain law in economics argument
24 here in terms of a 15-year sentence. At the current rate, it's
11:59 25 \$42,000 a year. Obviously, that will go up in terms of how

1 much it costs to incarcerate someone. It costs more to
2 incarcerate older people. The sentence the government is
3 asking for is going to cost, at current rates, close to
4 three quarters of a million dollars for someone who could be
12:00 5 back in Turkey and be their problem to deal with economically
6 as he gets older.

7 Now, the 3553(a) conditions, I do think this is the
8 kind of sentence, 15 years, that no one wants to serve. So it
9 is plenty long to get the public's attention and to show that
12:00 10 there is significant punishment here, but when you look at the
11 individual, I do think the sentence we're asking for becomes
12 reasonable. And it's because there has been, besides the
13 addiction, extraordinary rehabilitation. You have the letters
14 from Wyatt. There's just so much someone can do. Part of why
12:00 15 a detention hearing is so important in these courts is, when I
16 can get a client out, they can do so much more when they're
17 outside. That's a fact. Obviously, Mr. Alkayisi was not going
18 to be released on pretrial release given the facts of this
19 case. We understand that.

12:01 20 In the 3 years, he has sought to do real change, and
21 I've seen real change in this man. He now teaches religious
22 courses. He is the person who gives the sermons at Wyatt now.
23 He works in the kitchen and has been in a leadership role in
24 the kitchen. He organizes the meals for everybody, but
12:01 25 particularly at the time of Muslim fasting and different Muslim

1 customs, he is in charge of creating the menu that fits with
2 the fasting times and then the eating after the fast is over.

3 So he's grown. He would acknowledge that when this
4 case was happening, he was very much a lost soul. Part of why
12:02 5 he feels terribly guilty that his wife is going to go to jail
6 at all in this case is because it's his fault, and he
7 understands that, but also not only that, at the time he
8 brought another woman into the marriage. He put his wife
9 through all sorts of emotional turmoil while he was trying to
12:02 10 show off at the casinos with women by his side.

11 He knows what a kind of vapid, horrible existence that
12 he lived that put others through terrible pain, and that's what
13 he's been trying to recover from, not just this case, but the
14 man he had become as opposed to the man he wants to be, and
12:03 15 that he saw that he had become much more like the people that
16 he grew up abhorring, like his father who actually abused him,
17 and that he wanted to be something different.

18 In these 3 years, he has set out to do that. I can
19 say that that has happened in the sense that when I first had
12:03 20 his case, we went through all sorts of cockamamie discussions
21 about how I could get this thing dismissed. Then I watched him
22 evolve as a human being at the same time that he evolved in how
23 he worked with me.

24 I saw him grow as a man and become a different person,
12:03 25 and the institutional letters back that up. Now can I get more

1 for you from there? No, because he's locked up. But for
2 someone locked up, he did about as much as you can do. There
3 is a religious community there of Muslim people that no longer
4 have someone coming in from the outside and he has filled that
12:04 5 role well for that institution. That shows the changes in the
6 man.

7 Lastly, the reason that any sentence I believe more
8 than 15 years would be cruel and unusual punishment is not the
9 outward facts of the case, meaning the large amounts of meth or
12:04 10 that meth is terrible. None of that is in dispute here. It's
11 that we have a 63-year-old man who is definitely going to be
12 deported. He's being deported to Turkey where we know he
13 hasn't lived since he was six years old. So he's going to go
14 some place where he has no home, no employment, no family, no
12:05 15 social safety net, and he's going to be dropped in the streets
16 of Turkey. If you give him the sentence that I have asked for,
17 he'll be probably 73 years old having to start an entirely new
18 life in a country he hasn't lived in since he was six years
19 old. That seems to me to be a very severe punishment.

12:05 20 That's what I'm asking you to take into consideration,
21 meaning just the circumstances of where he lands makes it a
22 severe sentence, the one that I am imploring you to impose.
23 Anything greater puts him there at a greater age trying to
24 survive in a culture without many, if any, social safety nets
12:06 25 because, again, he doesn't have anything to fall back on. He

1 hasn't worked for 30 years in Turkey. He doesn't have anything
2 to draw upon. And he doesn't have any family there to draw
3 upon.

4 So I appreciate the Court's time, and I'd ask the
12:06 5 Court to impose a 15-year sentence because in these particular
6 circumstances, it is a just sentence.

7 Thank you.

8 THE COURT: Thank you, Mr. Shea.

9 Does Mr. Alkayisi wish to address the Court before
12:06 10 sentence is imposed?

11 THE DEFENDANT: Yes, your Honor.

12 THE COURT: You may do so.

13 THE DEFENDANT: As you know, I am 63 years old, and it
14 has been documented that the government tracked me for the
12:06 15 9 months for their investigation and made a character
16 hypothesis of who I am.

17 The government's words is not who I am. Yes, I do or
18 I did have an addiction, but given the letters that you have,
19 your Honor, I've been in incarceration for 3 years. Not once
12:07 20 have I ever gotten a ticket or got into trouble or got into
21 violence, and I've been in the kitchen for 3 years, yet a lot
22 of people have been terminated from the kitchen for their
23 misbehaviors. Given that fact, your Honor, all I wanted to say
24 is I hope that God puts mercy in your heart and wisdom in your
12:07 25 tongue when you make your judgment, sir. That's it.

1 THE COURT: Thank you.

2 Do counsel know of any reason why sentence ought not
3 to be imposed at this time? Miss Porter?

4 MS. PORTER: No, your Honor.

12:08 5 THE COURT: Mr. Shea?

6 MR. SHEA: No, your Honor.

7 THE COURT: Please stand, Mr. Alkayisi.

8 Your crime of organizing and leading a conspiracy to
9 distribute huge amounts of methamphetamines as part of a
12:08 10 violent criminal enterprise over an extended period of time is
11 not only despicable but also almost certainly caused untold
12 pain and suffering to vulnerable drug addicts. This sort of
13 drug trafficking is a plague on our society and the only way to
14 stop it is to send the perpetrators to jail for long enough to
12:09 15 impress upon them and to those who would do likewise that it is
16 not worth it.

17 You know, Mr. Alkayisi, this case is particularly
18 troubling to this Court because you weren't a drug dealer
19 because you were starving and had no other way to make a living
12:09 20 or because you were an addict who needed money to feed your
21 habit. No. You are an educated person with an upper class
22 upbringing perfectly capable of earning an honest living who
23 simply chose to become a drug dealer out of greed and to make
24 big profits in the country that allowed you to emigrate into
12:09 25 it. That is unconscionable and inexcusable.

1 The drug you chose to deal in is methamphetamine, one
2 of the most deadly drugs on the street and responsible for
3 untold grief and suffering among our people. Again, it is a
4 plague on our population which has caused egregious pain and
12:10 5 suffering to our most vulnerable victims and citizens. You are
6 being held accountable for the distribution of hundreds of
7 kilograms of this poison.

8 I'm going to punish you and administer a sentence that
9 is very, very long but not as long as the government requests
12:10 10 because I believe that is a Draconian amount of time, but the
11 sentence is intended to send a message to you and to anyone
12 else who would do likewise. This society is not going to
13 tolerate this sort of drug trafficking in our midst. It just
14 is not.

12:11 15 Pursuant to the Sentencing Reform Act of 1984 and
16 having considered the sentencing factors enumerated in Title 18
17 of the United States Code Section 3553(a), it is the Judgement
18 of this Court that you, Reshat Alkayisi, are hereby committed
19 to the custody of the Bureau of Prisons, to be imprisoned for a
12:11 20 term of 276 months. This term consists of 216 months on
21 Superseding Counts One and Three to Five, and 60 months on
22 Superseding Count Two, to be served consecutively to the terms
23 imposed on Superseding Counts One and Three through Five.

24 Upon release from imprisonment, you shall be placed on
12:12 25 supervised release for a term of 5 years. This term consists

1 of 5 years on Counts One, Superseding Counts One and Two, and
2 3 years on Counts Three, Superseding Counts Three, Four, and
3 Five, such terms to run concurrently.

4 Within 72 hours of release from custody of the Bureau
12:12 5 of Prisons, you shall report in person to the district to which
6 you are released.

7 No fine is imposed as it is deemed you do not have the
8 financial ability to pay a fine.

9 While under the Probation Office's supervision, you
12:12 10 are to comply with the following terms and conditions: First,
11 you shall not commit another federal, state or local crime.
12 You shall not unlawfully possess a controlled substance. You
13 shall refrain from any unlawful use of a controlled substance
14 and submit to one drug test within 15 days of release from
12:13 15 imprisonment and at least two periodic drug tests thereafter,
16 not to exceed 50 tests per year. You must cooperate in the
17 collection of a DNA sample as directed by the Probation Office.

18 You are to comply with the standard conditions that
19 have been adopted by this Court and are described in sentencing
12:13 20 guideline Section 5D1.3(c), which will be set forth in detail
21 in the Judgment and Committal.

22 The following special conditions apply during
23 supervised release: If ordered deported, you shall leave the
24 United States and not return without the prior permission of
12:13 25 the Secretary of the Department of Homeland Security. You are

1 prohibited from frequenting establishments whose primary
2 purpose is gambling. You are prohibited from participating in
3 any gambling activities, including casino gambling, online
4 gambling, lotteries, instant scratch tickets, Keno or any other
12:13 5 activities similar in nature. You must attend a gambling
6 specific treatment program and/or meetings as directed by the
7 Probation Office, and you are required to contribute to the
8 costs of evaluation, treatment, programming and/or monitoring
9 of the special conditions hereby imposed based upon your
12:14 10 ability to pay or the availability of third-party payment.

11 It is further ordered that you shall pay to the United
12 States a Special Assessment of \$500, which shall be due and
13 payable immediately.

14 Mr. Alkayisi, you have a right to appeal this
12:14 15 sentence. If you choose to appeal, you must do so within
16 14 days. If you cannot afford an attorney, an attorney will be
17 appointed on your behalf.

18 Do you understand that?

19 THE DEFENDANT: Yes, your Honor.

12:14 20 THE COURT: Is there any further business to come
21 before the Court in these proceedings?

22 [REDACTED]
23 [REDACTED]
24 [REDACTED]
12:14 25 [REDACTED]

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MR. SHEA: The only thing I realized, Judge,

Mr. Alkayisi's family is all located in California. His wife is in California. We're just asking if the Court could ask that the Bureau of Prisons use a California address as opposed to the non-existent Rhode Island address for the purposes of determining where he lives.

THE COURT: Yes. The Court will make a recommendation that the Bureau of Prisons incarcerate the defendant in a facility in or near California where the defendant has relatives.

MR. SHEA: Thank you.

THE COURT: We're adjourned.

THE CLERK: All rise. The defendant is remanded.

(The Honorable Court exited.)

(Adjourned, 12:16 p.m.)

C E R T I F I C A T E

UNITED STATES DISTRICT COURT)
DISTRICT OF MASSACHUSETTS)

I, Kristin M. Kelley, certify that the foregoing is a
correct transcript from the record of proceedings taken
September 17, 2024 in the above-entitled matter to the best of
my skill and ability.

/s/ Kristin M. Kelley

October 30, 2024

Kristin M. Kelley, RPR, CRR
Official Court Reporter

Date